

JAMAICA

No. 13 - 2015

I assent,



P. L. Allen

Governor-General.

29th day of July, 2015

AN ACT to Amend the Copyright Act.

[*30th day of July, 2015*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Copyright (Amendment) Act, 2015, and shall be read and construed as one with the Copyright Act (hereinafter referred to as the "principal Act") and all amendments thereto.

Short title
and
construction.

2. Section 2 of the principal Act is amended in subsection (1)—

Amendment
of section 2
of principal
Act.

(a) by inserting immediately before the definition of "adaptation" the following definition—

““accessible format”, in relation to a protected work means a version of the work in Braille, large-

print, electronic format or otherwise modified to provide a person with a disability with improved access to the work;”;

- (b) by inserting next after the definition of “author,” the following definition—

““authorized body” means—

- (a) the Jamaica Council for Persons with Disabilities;
- (b) the National Library of Jamaica;
- (c) any other body that is so named by the Minister on the recommendation of the Jamaica Intellectual Property Office;”;

- (c) by inserting next after the definition of “cable programme service” the following definitions—

““carrier” means a person who is granted a carrier licence pursuant to section 13 of the *Telecommunications Act*;

“circumvention” in relation to a technological protection measure means—

- (a) the descrambling of a scrambled work;
- (b) the decryption of an encrypted work, or other action to avoid, bypass, remove, deactivate, or impair a technological protection measure without the authority of the copyright owner;

“circumvention device” means a device that—

- (a) is designed or produced for the purpose of the circumvention of a technological protection measure that effectively controls access to a protected work in respect of which rights are conferred under Part IX; or

- (b) has only a limited commercially significant purpose or use, other than the circumvention of a technological protection measure that effectively controls access to a protected work;”;
- (d) by inserting next after the definition of “country” the following definition—
 - “ “Crown copyright” means copyright owned by the Crown;”;
- (e) by inserting next after the definition of “exclusive recording contract” the following definition—
 - “ “Executive Director” means the Executive Director of the Jamaica Intellectual Property Office;”;
- (f) by inserting next after the definition of “film” the following definition—
 - “ “fixation” means the embodiment of sounds or images or the representations thereof, from which sounds or images or representations can be perceived, reproduced or communicated through a device and “fix” shall be construed accordingly;”;
- (g) by inserting next after the definition of “musical work” the following definitions—
 - “ “Office” means the Jamaica Intellectual Property Office established under the *Jamaica Intellectual Property Office Act*;
 - “orphan work” means a protected work in relation to which the author or copyright owner has not been identified or located after reasonable efforts to identify or locate the author or copyright owner;”;
- (h) in the definition of “performer”, by deleting the words “plays in or otherwise performs, a literary, dramatic, musical, or artistic work” and substituting therefor the words “plays in.

interprets, or otherwise performs, a literary, dramatic, musical or artistic work or an expression of folklore, as the case may be”;

(i) in the definition of “record”, by inserting immediately after the words “or other device” the words “any electronic or other intangible fixation,”;

(j) by inserting next after the definition of “recording” the following definition—

“ “Register” means the Register of Copyright and Related Rights kept pursuant to section 9A;”;

(k) by inserting next after the definition of “reprographic process” the following definition—

“ “rights management information” means any information attached to or embodied in a copy of a work or other subject matter, which identifies—

(a) the work;

(b) the author of the work;

(c) the owner of any right in the work;

(d) the performer of a performance embedded in the work;

(e) the terms or conditions of the use of the work; or

(f) any numbers or codes that represent any of the information set out in paragraph (a), (b), (c), (d) or (e);”;

(l) by inserting next after the definition of “sculpture” the following definition—

“ “service provider” means a person who is the holder of a service provider licence issued under section 13 of the *Telecommunications Act*;”;

- (m) in paragraphs (a) and (b) of the definition of “sound recording”, by inserting immediately after the words “which sounds” wherever they appear the words “or representation of the sounds” in each case;
- (n) by inserting next after the definition of “specified country” the following definitions—

“ “specified service” means a telecommunication service or such other service as may be prescribed under the *Telecommunications Act*;

“technological protection measure” means a device or component or feature incorporated into a process that is designed in the ordinary course of its operation, to prevent or inhibit the infringement of rights in a protected work by—

- (a) ensuring that access to the work is available solely by use of an access code or process, including decryption, descrambling or other transformation of the work, with the authority of the owner or exclusive licensee of the copyright;
- (b) a copy control mechanism, which limits the number of permissible copies that may be made of the protected work;”.

3. Section 9 of the principal Act is amended—

- (a) in subsection (1), by—
 - (i) deleting from paragraph (d), the word “or”;
 - (ii) deleting the full stop at the end of paragraph (e) and substituting therefor the word “; or”; and

Amendment of
section 9 of
principal Act.

(iii) inserting next after paragraph (e) as amended, the following as paragraph (f)—

“(f) to authorize any communication to the public of the work by wire or wireless means, including making the work available for access by any member of the public from a place and time determined by the member of the public.”; and

(b) by renumbering subsections (2) and (3) as subsections (3) and (4) respectively and inserting next after subsection (1), the following as subsection (2)—

“(2) Subject to subsection (1) (e), adaptations of a work shall be protected as original works, without prejudice to the copyright in the original work.”.

4. The principal Act is amended by inserting next after section 9, the following as sections 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H and 9I—

Insertion of new sections 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H and 9I in principal Act.

“Register of Copyright and Related Rights.

9A.—(1) There shall be kept by the Jamaica Intellectual Property Office, (whether electronically or otherwise) a Register to be called the Register of Copyright and Related Rights, in which shall be entered the following information submitted pursuant to an application under section 9B—

- (a) the names or titles of works in which copyright is presumed to subsist;
- (b) the names and addresses of authors, publishers and owners of copyright and related rights, assignees of copyright and persons to whom an interest in copyright has been granted by licence; and
- (c) such other particulars as may be prescribed.

(2) Documents purporting to be copies of or extracts from any entry in the Register, if certified by the Executive Director or other authorized officer under the seal of the Office, shall in the absence of evidence to the contrary, be presumed to be authentic for all purposes and shall be admissible as evidence of the contents thereof in any legal proceedings.

Application to enter particulars in Register.

9B.—(1) Any person referred to in subsection (2)(c), or his agent, who intends to name particulars of a work entered in the Register, shall make an application to the Executive Director, in the form prescribed as Form A in the First Schedule, accompanied by the fees prescribed in relation thereto in the Third Schedule.

Form A. First Schedule. Third Schedule.

(2) An application made under subsection (1) shall contain—

- (a) the name and address of the author, and if the author is dead, the date of the author's death, if known;
- (b) the name and address of the owner of the copyright in the work;
- (c) a declaration in the form prescribed as Form B in the First Schedule that the applicant is—

Form B. First Schedule.

- (i) the author of the work;
 - (ii) the owner of the copyright in the work;
 - (iii) a person to whom a partial assignment as described under section 23(2) has been made;
- or

- (iv) a person to whom an interest in the copyright has been granted by licence;
- (d) the nature of the work;
- (e) the title of the work;
- (f) in the case of a published work, the date and place of first publication; and
- (g) any additional information as may be prescribed.

(3) Where the Executive Director receives an application under this section, the Executive Director may conduct such inquiry as the Executive Director deems fit before entering the particulars of the work in the Register.

(4) Where the Executive Director enters a work in the Register, the Executive Director shall issue to the applicant under this section a certificate of registration in the form set out as Form C in the First Schedule.

Form C.
First
Schedule.

Copyright
author, owner
or assignee,
etc., not
deprived of
rights where
copyright not
registered.

9C.—(1) The non-registration in the Register, of a work in accordance with section 9A, shall not deprive a person referred to in section 9B (2)(c) (i), (ii), (iii) or (iv) of his rights under this Act in relation to the work.

(2) For the avoidance of doubt and without limiting the generality of subsection (1), the registration of a work in the Register is not a condition precedent to instituting legal action for the infringement of copyright or any related rights in the work.

Executive
Director may
amend or
alter the
Register.

9D. The Executive Director may, as advised by the applicant for registration of a work, or on the Executive Director's own motion, and shall if so directed by a court of competent jurisdiction,

amend or alter the Register, in relation to any work registered therein, to—

- (a) correct any error in any name, address or particulars, or other error appearing in the Register in relation to the work;
- (b) record—
 - (i) any transfers in ownership or other dealing in the work; or
 - (ii) the date of death of the author;
- (c) update any name, address or other particulars; and
- (d) remove the entry in relation to the work where—
 - (i) the Executive Director is satisfied that the entry has been obtained by fraud or other malfeasance; or
 - (ii) if the applicant so requests.

Author or owner of copyright may request to change registration details. Form D. First Schedule.

9E.—(1) Subject to subsection (2), an author or owner of copyright and related rights, in relation to work registered in the Register, may make a request to change the details of such registration in the form set out as Form D in the First Schedule.

(2) The Executive Director may refuse to make the change requested under subsection (1) if the Executive Director is satisfied that—

- (a) the interest of any other person is likely to be adversely affected and no satisfactory evidence of consent has been provided to the Executive Director of that person to the change; or

(b) it would be improper to make the change in the absence of—

- (i) a court order; or
- (ii) the carrying out of any action appearing to the Executive Director to be prudent in the circumstances.

Register open for public inspection.

9F. The Office shall make the Register available for public inspection whether by electronic or other access thereto.

Publication of corrections to the Register.

9G. The title or names of works, names and addresses of authors and other prescribed particulars of authors and works in every entry made in the Register, and any corrections made thereto may be published by the Executive Director from time to time.

Damages caused by fraud, etc. recoverable in Court.

9H. Where a person applies for the registration of copyright on behalf of another person, and as a result of a fraudulent or an erroneous assumption of such authority, damages results to the copyright owner or owner of related rights, such damages shall be recoverable in court.

Immunity of Office in relation to Register.

9I. The Office shall not be liable in respect of any action done or omission made in good faith, in relation to any of its functions exercised under section 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H or 9I.”.

Amendment of section 10 of principal Act.

5. Section 10 of the principal Act is amended by deleting the words “fifty years” wherever they appear and substituting therefor in each case the words “ninety-five years”.

Amendment of section 11 of principal Act.

6. Section 11 of the principal Act is amended in subsection (1) by deleting the words “fifty years” wherever they appear and substituting therefor in each case the words “ninety-five years”.

7. Section 12 of the principal Act is amended in subsection (1) by deleting the words “fifty years” and substituting therefor the words “ninety-five years”.

Amendment of section 12 of principal Act.

8. Section 13 of the principal Act is amended by deleting the words “twenty-five years” and substituting therefor the words “fifty years”.

Amendment of section 13 of principal Act.

9. The principal Act is amended by inserting next after section 13, the following as sections 13A, 13B and 13C—

Insertion of new sections 13A, 13B and 13C in principal Act.

“Duration of copyright where copyright vests in employer. 13A. Where, pursuant to an agreement between employer and employee, the copyright in a work created by the employee has vested in the employer, the copyright expires at the end of the period of ninety-five years from the end of the calendar year in which the work was created.

Crown copyright and duration. 13B.—(1) Where a work is made by a person employed or engaged by the Crown under a contract of service, a contract of apprenticeship or a contract for services, the Crown is the first owner of any copyright in the work, subject to any agreement to the contrary.

(2) Notwithstanding subsection (1), Crown copyright shall subsist in a literary work consisting of any of the following works—

- (a) a Bill introduced into either of the Houses of Parliament or any report of a committee of Parliament;
- (b) an Act of Jamaica or any subsidiary legislation; or
- (c) the Hansard Reports of Parliamentary Debates.

(3) Crown copyright shall not be deemed to be infringed by non commercial use of work, if such use is not misleading, mischievous or otherwise derogatory.

(4) Nothing in subsection (2) shall affect copyright in any work that is incorporated by reference in a work referred to in subsection (2).

(5) Crown copyright shall expire—

- (a) in the case of a typographical arrangement of a published edition, at the end of the period of fifty years from the end of the calendar year in which the work is made; and
- (b) in the case of any other work, at the end of the period of ninety-five years from the end of the calendar year in which the work is made.

(6) This section applies only—

- (a) in relation to authors employed by the Crown and the copyright existing by virtue of their contribution to the work;
- (b) in the case of a work of joint authorship (other than where paragraph (a) would apply) where one or more, but not all, of the authors are persons employed or engaged by the Crown under—
 - (i) a contract of service;
 - (ii) a contract of apprenticeship; or
 - (iii) a contract for services.

(7) Without limiting the effect of section 150, the Minister may make regulations in relation to Crown copyright, including any dealings therein or any exceptions to infringements thereof.

Application
to Crown
copyright.

13C. Subject to the provisions of this Act, this Act applies in relation to Crown copyright as to other copyright.”.

10. Section 33 of the principal Act is amended in subsection (1) by—

Amendment of section 33 of principal Act.

- (a) deleting the word “or” at the end of paragraph (a);
- (b) deleting the comma at the end of paragraph (b) and substituting therefor the word “; or”;
- (c) inserting next after paragraph (b) as amended, the following as paragraph (c)—

“(c) has in his possession, custody or control, a circumvention device, knowing or having reason to believe that the circumvention device has been or is being used to—

- (i) circumvent a technological protection measure;
 - (ii) give unauthorized access to a protected work; or
 - (iii) make infringing copies of a protected work,”; and
- (d) deleting the words “copy or article” and substituting therefor the words “copy, article or circumvention device”.

11. Section 36 of the principal Act is amended in—

Amendment of section 36 of principal Act.

- (a) subsection (1), by deleting the word “concluded” and substituting therefor the word “conferred”;
- (b) subsection (2)(g), by inserting immediately after—
 - (i) the word “pseudonymous” the words “or orphan”; and
 - (ii) the words “is dead” the words “or that the copyright owner cannot be identified or located after reasonable inquiry”.

Amendment
of section 46
of principal
Act.

12. Section 46 of the principal Act is amended by inserting next after subsection (3), the following as subsections (3A) and (3B)—

“ (3A) A person who causes—

- (a) the manufacture of a circumvention device;
- (b) the importation into Jamaica, of a circumvention device for sale or rental;
- (c) the distribution of a circumvention device; or
- (d) the unauthorized broadcast of a circumvented work,

commits an offence, if the person ought reasonably to have known that the circumvention device is likely to be used to circumvent or facilitate the circumvention of a technological protection measure that will prejudicially affect an owner of copyright.

(3B) A person commits an offence if the person causes—

- (a) the removal or alteration of rights management information attached to a copy of a protected work, without the permission of the owner or exclusive licensee of the copyright; or
- (b) the importation for distribution, the distribution or broadcast to the public of a protected work, if the person knows that the rights management information attached to the protected work has been removed or altered without the permission of the owner or exclusive licensee of the copyright.”

Amendment
of section 48
of principal
Act.

13. Section 48 of the principal Act is amended in subsection (1) by—

- (a) deleting the word “or” appearing at the end of paragraph (a);
- (b) deleting the comma at the end of paragraph (b) and substituting therefor the word “; or”;

- (c) inserting next after paragraph (b), as amended, the following as paragraph (c)—

“(c) he had in his possession, custody or control a circumvention device, knowing or having reason to believe that it has been or is being used to—

- (i) circumvent a technological protection measure; or
- (ii) give unauthorized access to, or make infringing copies of, a protected work.”; and

- (d) deleting the words “copy or article” and substituting therefor the words “copy, article or circumvention device”.

14. Section 55 of the principal Act is amended by—

Amendment
of section 55
of principal
Act.

- (a) deleting the word “or” appearing at the end of paragraph (a);
- (b) deleting the comma appearing at the end of paragraph (b) and substituting therefor a semicolon; and
- (c) inserting next after paragraph (b) as amended, the following as paragraphs (c), (d) and (e)—

“(c) by the making of copies for the purpose of restoring or preserving the work;

(d) by the making of copies which are transient, temporary or incidental to the authorized publication of the work; or

(e) by the incidental storage and copying of the work which occurs pursuant to authorized transmission of the work.”.

15. The principal Act is amended by inserting next after section 65, the following heading and sections as sections 65A and 65B—

Insertion of
new heading
and sections
65A and 65B
in principal
Act.

“*Exceptions for Persons Who are Disabled*
65A.—(1) An authorized body may, if the conditions in subsection (2) are complied with, make or supply copies or adaptations of published literary

Copyright of
works by
persons with
a print
disability.

or dramatic works for the purpose of providing persons who have a print disability, with copies that are in an accessible format, without infringing any copyright in those literary or dramatic works.

(2) The conditions referred to in subsection (1) are that—

- (a) the authorized body has made reasonable efforts to obtain a copy of the complete work, in an accessible format at a reasonable commercial price, but has been unable to do so;
- (b) the copies are provided only to persons having a print disability;
- (c) where any person acting on behalf of the authorized body makes a copy or adaptation of a published literary or dramatic work under this section, the authorized body shall, as soon as is reasonably practicable, take all reasonable steps to notify the owner of the copyright in the work of the making of a copy or adaptation; and
- (d) if any person with a print disability to whom a copy is provided is required to pay for the copy, the payment required is no higher than a sum consisting of the cost of the production of the copy and a reasonable contribution to the general expenses of the authorized body, with no element of profit.

(3) An authorized body may copy a work contained in an electronic medium for the purposes of converting the work to an accessible format.

(4) Circumvention of a technological protection measure for the purposes referred to in subsection (1), shall not be treated as a commission of an offence or infringement of any copyright in the work.

(5) In this section, a person has a print disability if that person—

- (a) is blind;
- (b) suffers from severe impairment of his sight;
- (c) is unable to hold or manipulate printed material;
- (d) is unable to focus or move his eyes; or
- (e) suffers any other disability with respect to visual perception.

Hearing disabled.

65B.—(1) A person with a hearing disability, an authorized body or an organization acting on that person's behalf and approved for that purpose by an authorized body, may, without infringing any copyright in the work—

- (a) translate, adapt or reproduce in sign language a literary or dramatic work, other than a cinematographic work, in a format specially designed for persons with a hearing disability; or
- (b) perform in public a literary or dramatic work, other than a cinematographic work, in sign language, either live or in a format specially designed for persons with a hearing disability.

(2) In this section a person has a hearing disability if that person—

- (a) suffers from severe or profound deafness; or
- (b) is not able to discriminate speech in a meaningful way, from other sounds.”.

Amendment
of section 71
of principal
Act.

16. Section 71 of the principal Act is amended by renumbering subsections (2) and (3) as subsections (5) and (6) respectively, and inserting next after subsection (1), the following as subsections (2), (3) and (4)—

“ (2) For the purposes of this section—

- (a) efforts undertaken to ascertain the identity or locate an author, referred to in subsection (1), shall be documented; and
- (b) without prejudice to the adequacy of any other form of effort to ascertain the identity of the author, reasonable inquiry shall be deemed to have been made, where a notice seeking to ascertain the location or identity of the author has been published electronically or otherwise in a newspaper in island-wide circulation in Jamaica or other publicly available medium.

(3) Where an act referred to in subsection (1) is done for profit, or is not governed by the other provisions of this Part, and the author is located or identified no later than six years after the end of the calendar year in which the act takes place, the copyright owner shall be entitled to receive equitable remuneration for the use made of the work.

(4) Where there is no agreement as to equitable remuneration payable pursuant to subsection (3), an application for a determination of the equitable remuneration payable, may be made to the Copyright Tribunal or to a court of competent jurisdiction.”.

Amendment
of section 77
of principal
Act.

17. Section 77 of the principal Act is amended by deleting all the words preceding paragraph (a) and substituting therefor the following—

“ 77. Where sound recordings have, with the licence or consent of the owner of the copyright in the work been previously made in, imported into or distributed in Jamaica for the purposes of retail sale, then any person may after the expiry of the period of four months immediately following upon the date of the

first authorized distribution in Jamaica of such recordings for retail sale, and without first obtaining the licence or consent of the owner of the copyright in the work, make or authorize the making of sound recordings of it if such person—”.

18. The principal Act is amended by inserting next after section 82, the following as section 82A—

Insertion of section 82A in principal Act.

“ Authorized body may copy a work in electronic form. 82A.—(1) An authorized body may copy a work contained in electronic form for archival and preservation purposes.

(2) Circumvention of a technological protection measure for the purposes referred to in subsection (1), shall not be an offence or an infringement of any copyright in the work.”.

19. The principal Act is amended by inserting next after section 83, the following as section 83A—

Insertion of section 83A in principal Act.

“ Carrier and service providers not deemed to infringe copyright work, etc. 83A.—(1) A carrier or service provider shall not be deemed to have infringed the copyright in any work by making a copy thereof which is incidental to the data transmission functions of the carrier or provider.

(2) A carrier or service provider shall not be deemed to have authorized, permitted or facilitated an infringement of copyright solely because another person uses a facility operated by the carrier, or specified services provided by the service provider, to infringe copyright.”.

20. Section 87 of the principal Act is amended in subsection (1) in the definition of “licensing body” by inserting immediately after the word “author” the words “, and that has obtained a certificate of registration in accordance with section 87A”.

Amendment of section 87 of principal Act.

Insertion of
new sections
87A and 87B
in principal
Act.

21. The principal Act is amended by inserting next after section 87, the following as sections 87A and 87B—

“Registration
of licensing
bodies.

87A.—(1) No person shall carry on the activity of negotiating or granting of licences on behalf of owners of copyright unless that person is a licensing body, holding a certificate of registration.

(2) Subsection (1) shall not apply where any activity therein referred to is carried on by a person acting as an authorized agent for one author and for no other.

(3) A society or other organization that intends to carry on operations as a licensing body, shall apply to the Executive Director in the form and manner prescribed, for a certificate of registration, and submit the prescribed fee.

(4) The Executive Director shall not register more than one licensing body at the same time to carry on operations in respect of the same class of rights, unless that Executive Director is satisfied that the registration of more than one such body is justified by market conditions and is in the public interest.

(5) For greater certainty and in furtherance of the functions conferred by the *Jamaica Intellectual Property Office Act*, the Executive Director shall have the functions in relation to the grant, refusal, suspension or revocation of a certificate issued under this Part.

(6) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate—

(a) in the case of an individual, to a fine not exceeding one million dollars or in

default of payment thereof to imprisonment for a term not exceeding six months; or

- (b) in the case of a body corporate, to a fine not exceeding one million dollars.

Owner of a copyright in a work shall continue to have the right to grant a licence.

87B. For greater certainty and in furtherance of the functions conferred by the *Jamaica Intellectual Property Office Act*, nothing in section 87A shall restrict the right of the owner of the copyright in a work or of related rights in respect of a work, to grant a licence in respect of the work in a manner that is not inconsistent with any of the contractual arrangements, if any, that the owner may have with a licensing body.”.

22. Section 103 of the principal Act is amended—

Amendment of section 103 of principal Act.

- (a) In the marginal note, by deleting the word “Schedule” and substituting therefor the words “Second Schedule”; and
- (b) in subsection (2), by inserting immediately after the words “provisions of the” the word “Second”.

23. The principal Act is amended by inserting next after section 106, the following heading and section 106A—

Insertion of new heading and section 106A in principal Act.

“ *Recognition of Rights*

Recognition of moral rights of performers.

106A.—(1) A performer shall have the right with respect to live aural performances or performances fixed in phonograms—

- (a) to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; or
- (b) to object to any distortion, mutilation or other modification of his performances that is prejudicial to his reputation.

(2) The rights conferred under this section shall exist independently of the rights conferred under section 108.”

Repeal and replacement of section 108 of principal Act.

24. The principal Act is amended by deleting section 108, and substituting therefor the following—

“ Consent required for recording or live transmission of performance.

108.—(1) A performer’s rights are infringed by a person who, without the performer’s consent —

- (a) fixes in a recording, otherwise than for his private and domestic use, the whole or any substantial part of a qualifying performance;
- (b) copies a recording, otherwise than for his private and domestic use, of the whole or any substantial part of a qualifying performance;
- (c) sells, rents or distributes to the public, or otherwise transfers ownership of any such recording or copies thereof, that is not already subject to a sale, rental distribution or other transfer authorized by the performer; or
- (d) broadcasts live, or includes live in a cable programme service or otherwise communicates to the public, the whole or any substantial part of a qualifying performance.

(2) A performer’s rights are not infringed by—

- (a) the making of copies of a recording of a qualifying performance for the purpose of archiving, restoring or preserving the work;

- (b) the making of copies which are transient, temporary or incidental to the authorized performance of the work; or
- (c) the incidental storage and copying of a recording of the performance in the process of an authorized transmission, thereof.

(3) In any action for infringement of a performer's rights under subsection (1), damages shall not be awarded against a defendant who shows that at the time of the infringement he believed on reasonable grounds that consent had been given."

25. Section 114 of the principal Act is amended in subsection (1) by—

Amendment
of section
114 of
principal
Act.

- (a) deleting the word "or" appearing at the end of paragraph (a);
- (b) deleting the comma at the end of paragraph (b) and substituting therefor a semicolon; and
- (c) inserting next after paragraph (b) as amended, the following as paragraphs (c), (d) and (e)—
 - "(c) rents or distributes an unauthorized recording of the whole or a substantial part of the performance;
 - (d) makes the whole or a substantial part of the performance available to the public by means of a recording made accessible, or communicated to the public by means of any form of technology that allows a member of the public to access the performance from a place and at a time chosen by the member of the public; or
 - (e) copies a recording of the whole or a substantial part of the performance stored by means of any electronic retrieval system, on electronic devices or utilizing any other storage medium or device."

Amendment of
section 129 of
principal Act.

26. Section 129 of the principal Act is amended by deleting all the words appearing after the words “period of” and substituting therefor the words “ninety-five years from the end of the calendar year in which the performance was fixed or, in the absence of such performance being fixed, from the end of the calendar year in which the performance takes place.”.

Amendment of
section 134 of
principal Act.

27. Section 134 of the principal Act is amended by deleting from—

- (a) subsection (3), the words “subsections (1) and (2)” and substituting therefor the words “this section”; and
- (b) subsections (5) and (6), the words “subsection (1) or (2)” and substituting therefor the words “this section”.

Insertion of
new section
134A in
principal
Act.

28. The principal Act is amended by inserting next after section 134, the following as section 134A—

“Offence for
carrier or
service
provider to
facilitate
copyright
infringement,
etc.”

134A.—(1) A carrier or a service provider who knowingly—

- (a) operates a facility or otherwise permits or facilitates the use of a facility by another person to infringe copyright; or
- (b) provides specified services or permits or facilitates the use of specified services to another person in order to infringe copyright,

commits an offence.

(2) In an action for infringement, where a person uses a facility operated by or specified services provided by a carrier or a service provider to infringe copyright, the Court may, if it thinks fit, grant an injunction against the carrier or the service provider prohibiting the conduct referred to in subsection (1).

(3) A person who commits an offence under subsection (1), shall be liable—

(a) on summary conviction before a Resident Magistrate—

(i) in the case of an individual, to a fine not exceeding one million dollars and in default of payment thereof to imprisonment for a term not exceeding one year; or

(ii) in the case of a body corporate, to a fine not exceeding one million dollars; or

(b) on conviction in a Circuit Court—

(i) in the case of an individual, to a fine and in default of payment thereof to imprisonment for a term not exceeding five years; or

(ii) in the case of a body corporate, to a fine.”.

29. The principal Act is amended by inserting next after section 137, the following as section 137A—

“ Retrospective application.

137A.—(1) Subject to the provisions of this section, the amendments under sections 10, 11, 12, 13 and 129 made by, and the provisions of sections 13A and 13B incorporated under the *Copyright (Amendment) Act, 2015*, that extend the date for the expiration of copyright or other rights shall, notwithstanding anything to the contrary in this Act or any other law, be deemed to have come into operation on the 1st day of January, 2012.

Insertion of new section 137A in principal Act.

(2) Any person who during the relevant period has done any act in relation to a work or performance that had entered into the public domain prior to the doing of that act, and which would, by virtue of the application of subsection (1), otherwise be an infringement of copyright or other rights under this Act, shall not be subject to any civil or criminal liability in connection with—

- (a) that act; or
- (b) the performance of any legal obligations, whether during or after the relevant period, which arise out of any contractual arrangement entered into by the person during the relevant period in connection with that work or performance.

(3) In this section “relevant period” means the period commencing on the 1st day of January, 2012 and ending on the date of the coming into operation of the Copyright (Amendment) Act, 2015.”

Insertion of
new section
148A in
principal
Act.

30. The principal Act is amended by inserting next after section 148, the following as section 148A—

“Fees.
Third
Schedule.

148A.—(1) The fees specified in the Third Schedule shall be payable to the Office in respect of the matters therein prescribed.

(2) The Minister may by order amend the Third Schedule.”

Amendment
of section
150 of
principal
Act.

31. Section 150 of the principal Act is amended by inserting immediately after the words “to this Act” the words “and, notwithstanding the generality of the foregoing, the Minister may also prescribe fees in relation to any matter under this Act”.

32. The principal Act is amended by inserting next after section 153, the following as section 154—

Insertion
new section
154 in
principal
Act.

“Further
transitional
provisions.

154. Notwithstanding section 87A, a licensing body operating before the date of coming into operation of the *Copyright (Amendment) Act, 2015*, shall be required to satisfy the requirements for registration under section 87A and any regulations in relation thereto, within six months from that date or such longer period as the Minister, after consultation with the Executive Director, may by order prescribe.”.

33. The Schedule to the principal Act is amended by—

Insertion of
new First and
Third
Schedules in
principal
Act.

(a) renumbering the Schedule as the Second Schedule; and

(b) inserting the following as the First and Third Schedules, respectively—

“ FIRST SCHEDULE (Sections 9B and 9E)

FORM A

The Copyright Act

Voluntary Copyright Registration Service

Registration Number: ____/____/____	
--	--

*Application for Registration to Enter Particulars in Register
(Pursuant to section 9B)*

1. Title of Work(s): _____
2. Description of Work: _____
 Artistic (includes layout for websites)/Literary/Musical/Dramatic (dance, mimes)/Film/Computer software/Sound Recording/Typographical Arrangement of Published Editions
3. Also registered at JIPO as:
 Trade Mark Patent Industrial Design Geographical
 Indication
4. Date and Country where work was made: _____
5. If published, country and date of first publication: _____
6. Single Author: Joint Authors: Number of joint Authors: ____
7. Name of Author: _____
 Mailing Address: _____
 Telephone Numbers: (home) _____ (office) _____
 (mobile) _____
 Email: _____
 Country of Citizenship or Habitual Residence: (please state) _____
 Date of Birth: _____
 Date of Death: _____
 Name of Author: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

Country of Citizenship or Habitual Residence: (please state) _____

Date of Birth: _____

Date of Death: _____

For additional authors, please continue on additional blank paper

8. Pseudonym/Alias: _____

9. Is Author the Copyright Owner?: Yes (proceed to 14)

No (proceed to 10)

10. Name of Copyright Owner: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

Country of Citizenship or Habitual Residence: (please state) _____

Name of Copyright Owner: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

Country of Citizenship or Habitual Residence: (please state) _____

11. Relationship to Author(s):

Publisher Record Producer Manager Employer

Assignee Beneficiary Other (please specify) _____

12. Nature of Rights Owned:

All rights: Reproduction (text/image)
 Reproduction(music/lyrics)
 Synchronisation Other Reproduction (please specify) _____
 Distribution Public Performance Adaptation
 Broadcast/inclusion in cable programme
 Other (please specify) _____

13. Duration of Rights: From: _____ To: _____

14. Form Deposited by:

Name of Agent: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

15. Declaration by Author/Copyright Owner:

I/We _____ hereby declare that I/we am/are
 (please select as appropriate)

the true author(s) and /or owner of the work above described and have deposited an electronic copy of the work with the Jamaica Intellectual Property Office of my own free will and volition.

I/We fully understand that depositing a copy of this work with Jamaica Intellectual Property Office does not grant copyright, nor prevent potential acts of infringement but only provides, *prima facie* evidence of my/our claim of authorship/ownership in the deposited work. I/We grant Jamaica Intellectual Property Office permission to reproduce and store in electronic format, a copy of my/our work for the purposes of this copyright registration service only.

It has been explained to me/us and I/we fully understand that copyright arises automatically once a work qualifies under Part II of the Copyright Act of Jamaica, 1993 and, that the Jamaica Intellectual Property Office shall only indicate under which category of work it may be classified.


I/We hereby also declare that the information contained herein is true to the best of my/our knowledge and belief. I/We will indemnify and hold the Jamaica Intellectual Property Office harmless against any and all third party claims in respect of its dealings with the work deposited.

FOR JIPO USE ONLY			
Registration fee paid?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Amount paid: _____
Declaration of copyright submitted:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Electronic file deposited:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Proof of authorization to deposit from (if by agent):	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Date of Registration:	_____		
COMPLETED BY:	_____	_____	_____
(JIPO Officer)	Name	Signature	Date

Note:

This Form shall be completed by the Author/Copyright Owner and submitted to the Jamaica Intellectual Property Office by the Author/Copyright Owner or the Agent of the Author/Copyright Owner.

FORM B
The Copyright Act
Voluntary Copyright Registration Service

Registration Number: ____/____/____	 JIPO Jamaica Intellectual Property Office
--	---

*Declaration of Copyright Ownership and/or Authorship
(Pursuant to section 9B)*

I/We _____ is the author/owner of the copyright
(the applicant)

- a person to whom a partial assignment is made pursuant to section 23(2)
- a licence granted.

DO SOLEMNLY AND SINCERELY DECLARE as follows:

1. That I/we am/are the author /person to whom a partial assignment or licence is made or grante by the copyright owner(s) of a _____ work entitled _____.
2. Described nature of the work _____.
3. The work was made on _____ at _____.
4. That copies of the said work were first issued to the public on _____ at _____.
5. _____ is/am/are the author(s) of the work and which is original to me/us/him/them and not copied from another work.
6. The electronic version of the work submitted to the Jamaica Intellectual Property Office is a true representation of the work described herein, in respect of which I/we claim authorship/copyright ownership.

AND I/WE MAKE THIS SOLEMN DECLARATION conscientiously believing the same to be true and by virtue of the provisions of the Voluntary Declarations Act.

TAKEN AND ACKNOWLEDGED}

By
This day of , 20 ,
in the Parish of

Justice of the Peace

Author/Copyright Owner

TAKEN AND ACKNOWLEDGED}

By
This day of , 20 ,
in the Parish of

Justice of the Peace

Author/Copyright Owner

FORM C

The Copyright Act

Voluntary Copyright Registration Service

Registration Number: ____/____/____
--



JIPO
Jamaica Intellectual Property Office

Certificate of Registration
(Pursuant to section 9B)

I hereby declare that on the _____ day of _____, 20____, a claim of authorship and/or ownership of copyright by _____ was entered into the Register of Voluntary Copyright Registration Service at the Jamaica Intellectual Property Office in respect of the following work(s):

Name: _____

Type: _____

Author: _____

Date of creation: _____

Country of creation/publication: _____

Registration number: _____

Executive Director

(JIPO SEAL)

Date: _____

Notes:

1. The Jamaica Intellectual Property Office assumes no responsibility as to the truth and facts asserted by the claimant and has conducted no independent examination regarding the qualification of the work for copyright protection.
2. Copyright protection arises automatically once the requirements under the Copyright Act of Jamaica are satisfied.
3. This Certificate merely attests that a claim of authorship/copyright ownership was deposited with the Jamaica Intellectual Property Office on the date so indicated.

FORM D

The Copyright Act

Voluntary Copyright Registration Service

Registration Number: ____/____/____
--



*Request to Change Registration Details
(Pursuant to section 9E)*

1. Name of Applicant: _____
2. Relationship to Registered Work:
 - Author only Copyright Owner only
 - Author and Copyright Owner
3. Record a change of:
 - (a) mailing address of author: go to 4 and complete that section
 - (b) mailing address of next of kin: go to 5 and complete that section
 - (c) death of author: go to 6 and complete that section
 - (d) publication of work: go to 7 and complete that section
 - (e) name of copyright owner: go to 8 and complete that section
 - (f) mailing address of copyright owner: go to 8 and complete that section
 - (g) rights owned by copyright owner: go to 10 and complete that section
4. New mailing address: Author _____

 Telephone Numbers: (home) _____ (office) _____
 (mobile) _____
 Email: _____
5. New mailing address: Next of kin _____

 Telephone Numbers: (home) _____ (office) _____
 (mobile) _____
 Email: _____

6. Date of death of author(s): _____

7. Country and date of first publication: _____

8. Name of New Copyright Owner: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

Country of Citizenship or Habitual Residence (please state): _____

Contact/Agent: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

Name of New Copyright Owner: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

Country of Citizenship or Habitual Residence (please state): _____

Contact/Agent: _____

Mailing Address: _____

Telephone Numbers: (home) _____ (office) _____

(mobile) _____

Email: _____

9. Nature of Transfer—

(a) testamentary disposition

(b) assignment/licence

(c) other (please specify) _____

10. Nature of rights owned:All rights: Reproduction (text/image) Reproduction (music/lyrics) Synchronisation Other Reproduction (please specify) _____Distribution Public Performance Adaptation Broadcast/inclusion in cable programme

Other (please specify) _____

11. Duration of rights: From: _____ to: _____

12. Declaration by Author/Copyright Owner:I/We _____ hereby declare that the information
(please select as appropriate)

contained herein is true to the best of my/our knowledge and belief.

I/We will indemnify and hold the Jamaica Intellectual Property Office harmless against any and all third party claims in respect of its dealings with the work deposited.

Signed:

(Author/Copyright Owner)_____
Date_____
Witness_____
Date

Signed:

(Author/Copyright Owner)_____
Date_____
Witness_____
Date

THIRD SCHEDULE (Sections 9B and 148A)

*Registration and Certification Fees**Library Works—**Poems/lyrics/short stories:*

1-10 works	\$ 500.00
11-50 works	\$1,000.00
51-100 works	\$2,000.00
Each succeeding 10 works	\$ 10.00

Book/script/ magazine/catalogue/newsletter/minutes of meetings

Under 100 pages	\$1,000.00
100-250 pages	\$2,000.00
Each succeeding 50 pages	\$ 500.00

Press release/flyers/circulars etc. \$ 250.00

Audio-Visual/Dramatic Works

Film: 15 minutes or less	\$3,000.00 each
Documentaries	\$4,000.00
Feature film /plays	\$7,000.00
Other (e.g. lectures, weddings) under 3 hours	\$2,500.00
Each succeeding 50 pages	\$ 500.00

Artistic Works/Typographical Arrangements

Photo/painting/graphic image/dress pattern: (black/white)	\$ 200.00 each
(colour)	\$ 250.00 each
Technical drawing/map/website or book layout	\$1,500.00

Musical Works/Sound Recordings

1-15 compositions/pieces	\$1,000.00
20-40 compositions	\$2,500.00
Each additional 10 compositions	\$ 500.00

<i>Computer Software</i>	\$1,000.00
<i>Certified copies of registration certificate</i>	\$ 200.00 per page
<i>Application for Registration to enter particulars in the Register</i>	\$1,000.00

Passed in the House of Representatives this 9th day of June 2015 with two (2) amendments.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 26th day of June 2015 with six (6) amendments.

FLOYD E. MORRIS
President.

On the 30th day of June 2015 the House of Representatives agreed to the amendments made by the Senate.

MICHAEL A. PEART
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

(sgd.) *Heather E. Cooke*
Clerk to the Houses of Parliament.

